

IT 95-32

Tax Type: INCOME TAX

Issue: Income Earned In Illinois/Individual Residency

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
ADMINISTRATIVE HEARINGS DIVISION
CHICAGO, ILLINOIS

THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS

v.

XXXXXX
Taxpayer

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Docket No.:

FEIN or SSN:

Harve D. Tucker,
Administrative Law Judge

RECOMMENDATION FOR DISPOSITION

SYNOPSIS: This matter is before this administrative tribunal as a result of a timely filed protest by XXXXX (hereinafter referred to as the "Taxpayer") to a Notice of Deficiency (hereinafter referred to as the "Notice") issued to him on November 18, 1994 by the Illinois Department of Revenue (hereinafter referred to as the "Department"). The basis of the Notice is the Department's determination that the Taxpayer failed to report particular income for the tax year ending December 31, 1990. The Notice proposed to assess income tax, penalty and interest.

In his protest, the Taxpayer questioned how he made \$23,000 and did not pay enough taxes. He also stated that he did not wish a hearing in this matter. Therefore, the only issue to be determined on the information in the file, including the protest, is whether the Taxpayer has overcome the prima facie correctness of the Notice of Deficiency with sufficient evidence to show that he did not earn the additional income attributed to him during the year 1990.

Following a review of the documentation, it is recommended that this matter be resolved in favor of the Department of Revenue.

FINDINGS OF FACT:

1. The Department's prima facie case, inclusive of all jurisdictional elements, is established by the Notice of Deficiency which indicates that for the year ending December 31, 1990, this Taxpayer had Adjusted Gross Income of \$30,051. Dept. Ex. No. 1

2. The Department received information from the Internal Revenue Service through the Federal/State Exchange Program that the Taxpayer received non-employee compensation for CVD Moving Services, Inc. This income was not reported on the Taxpayer's original 1990 IL-1040. Dept. Ex. No. 3

3. The Taxpayer filed a timely protest to the Notice and requested that a hearing not be held. Dept. Ex. No. 2

4. The Taxpayer failed to provide the Department with any documentation showing that he did not earn the income attributed to him during the taxable year.

CONCLUSIONS OF LAW: 35 ILCS 5/201(a) imposes a tax measured by net income on every individual on the privilege of earning or receiving income in or as a resident of Illinois.

35 ILCS 5/202 defines net income as that portion of base income allocable to Illinois under the provisions of Article 3.

35 ILCS 5/203(a) defines base income as the taxpayer's adjusted gross income, with modifications.

The information provided by the Internal Revenue Service indicates that the Taxpayer underreported income subject to income tax. 35 ILCS 5/904(a) provides that the findings of the Department are prima facie correct and are prima facie evidence of the correctness of the tax and penalties due.¹ The Taxpayer has failed to provide any evidence to show that he did not earn the income subject to income tax or pay the tax required to be shown on the return under 35 ILCS 5/1005.

Therefore, base on the evidence of record, it is my recommendation

that the Notice of Deficiency issued in this cause be finalized as issued.

Harve D. Tucker
Administrative Law Judge

Date

1 See Jefferson Ice Co. v. Johnson, 139 Ill.App.3d 626 (1st Dist. 1985);
Farmers & Traders State Bank v. Johnson, 121 Ill.App.3d 43 (4th Dist.
1984).